

SENTENCING MINUTES
NORFOLK/NEWPORT NEWS DIVISION

Set: 11:00 a.m.

Date: 1/30/17

Started: 11:00 a.m.

Judge: Henry Coke Morgan, Jr., SUSDJ

Ended: 12:10 p.m.

Court Reporter: Paul McMaxus, OCR

U. S. Attorney: Kaitlin Gratton

Defense Counsel: Andrew Grindrod, AFPD + Richard Colgan

Probation Officer: Kristie Milby

Courtroom Deputy: Susan Cherry

Case No. 4:16cr16

Interpreter:

Defendant: EDWARD JOSEPH MATISH III (X) on bond () in custody

☒ Came on for disposition.

☐ Deft. sworn.

☐ Govt /Deft motion

- Argued

☒ GRANTED

☐ DENIED

☒ Presentence report reviewed.

☒ Court ACCEPTS the factual content of PSR as factual findings and the application of guidelines.

☐ Objections heard & rulings made.

☐ Evidence presented (Witnesses & Exhibits listed on last page)

☒ Arguments heard

☒ Statement of defendant heard

☐ Court finds deft. GUILTY as to Count(s) _____ after a plea before a USMJ.

IMPRISONMENT:

☒ Count(s) 15: The deft. shall be committed to the custody of the BOP to be imprisoned for a term of 40 months. ~~This term consists of _____ months on Count _____ and a term of _____ months on Count _____, all to be served concurrently/consecutively.~~

☐ The deft shall receive credit for time served.

☐ The deft is remanded to the custody of the U. S. Marshal.

☒ The deft shall surrender for service of the sentence at the institution designated by the Bureau of Prisons / U. S. Marshal Service, before _____ on _____, as notified by the U. S. Marshal or within 6 wks. of sentencing date, whichever occurs first.

PROBATION / SUPERVISED RELEASE:

☐ The deft shall be placed on Probation for a term of _____ years.

☒ Upon release from imprisonment, the deft. shall be on supervised release for a term of 10 years. ~~This term consists of _____ years on Count _____, a term of _____ years on Count _____, all to run concurrently.~~

DRUGS:

✓ As reflected in the presentence report, the deft presents a low risk of future substance abuse and therefore, the Court hereby suspends the mandatory condition for substance abuse testing as defined by 18 U.S.C. 3563(a)(5). However, this does not preclude the United States Probation Office from administering drug tests as they deem appropriate.

_____ The deft shall refrain from any unlawful use of a controlled substance and submit to one drug test within fifteen (15) days of release on supervised release and at least two (2) periodic drug tests thereafter, at times and places directed by the probation officer.

_____ The deft shall participate in a program approved by the United States Probation Office for substance abuse, which program may include residential and/or out-patient treatment and testing to determine whether the deft has reverted to the use of drugs or alcohol, with partial costs to be paid by the deft, all as directed by the probation officer.

_____ If the deft tests positive for the use of any controlled substance or abuse of alcohol, he will be required to enroll in and successfully complete a program for substance abuse treatment and he shall waive the confidentiality of any information disclosed during such treatment so that the Court and the probation officer will be able to make a determination of the duration and nature of the treatment required.

MENTAL HEALTH & ANGER MANAGEMENT:

_____ The deft shall participate in a mental health and/or anger management treatment program, as directed by the Probation Officer. He shall be required to waive any right of confidentiality as to any mental health treatment received in order to allow release of information to the Probation Officer, so the Probation Officer, and if necessary, the court, can determine whether the defendant should continue mental health treatment or medication.

MONETARY CONDITIONS:

_____ The deft shall not incur new credit charges or open additional lines of credit without the approval of the Probation Officer and shall provide the probation officer access to any requested financial information.

_____ The deft shall apply monies received from income tax refunds, inheritances, judgments, and any anticipated or unexpected financial gains to the outstanding court-ordered financial obligation.

_____ The deft. shall participate in the Treasury Offset Program as directed by the probation officer.

MOTOR VEHICLE:

_____ If the deft commits a moving traffic violation, he shall not operate any form of motor vehicle during the period of supervised release.

_____ If the deft tests positive for use of a controlled substance or abuse of alcohol, he shall not operate a motor vehicle during the period of supervised release, regardless of the status of his operator's license.

_____ The deft is prohibited from operating any motor vehicle while on supervised release.

CHILD SUPPORT:

_____ The Court reserves the right to impose child support upon the defendant's release. The defendant shall comply with all existing orders of support.

SEX OFFENDER CONDITIONS:

1. As reflected in the presentence report, the defendant presents a low risk of future substance abuse and therefore the Court suspends the mandatory condition for substance abuse testing. However, the probation officer shall retain the authority to order such testing if, in the judgment of the probation officer and the Court, or the Court, such testing becomes necessary.
2. The defendant shall participate in a program approved by the United States Probation Office for the treatment of sex offenders, with partial costs to be paid by the defendant as determined by the probation officer and the Court.
3. The defendant shall waive any right of confidentiality regarding sex offender or mental health treatment in order to allow that information to guide the court and the probation officer in determining the nature and length of such treatment.
4. The defendant shall submit to a polygraph as directed by the probation officer as part of his sex offender treatment. The defendant may assert his Fifth Amendment rights during such testing, but that issue may be brought to the attention of the Court and determined whether it is correctly asserted.
5. The defendant, during his period of supervised release, shall not utilize any sex related telephone services, website or other electronic media to view any form of pornography, adult or child. The defendant shall submit any records requested by the probation officer for examination to verify his compliance with this term of his supervised release.
6. The defendant shall not work in an occupation where he has access to pornographic material involving either adults or juveniles.
7. The defendant shall have no contact with minors during his period of supervised release unless accompanied by a competent, informed adult, approved in advance by the probation officer.
8. The defendant shall be required to register as a sex offender under the Adam Walsh Child Protection and Safety Act of 2006, and such registration will be required wherever he resides, works, or attends any continuing activity, including school.
9. The defendant shall submit to a search of his home, personal property, residence, vehicles, computer, or any other electronic medium for purposes of verifying his compliance with the terms of his supervised release. If the defendant works with a computer he shall be required to submit to monitoring of the computer to ensure his compliance with the terms of the supervised release, including a Wi-Fi detection device which may be utilized at his home or outside of his home or at his place of employment or outside of his place of employment.

_____ The defendant shall pay support in accordance with any outstanding order by any agency or court having jurisdiction over his children. If there is no such order in effect during his period of supervised release, the Court will impose its own requirement.

EDUCATION & EMPLOYMENT:

_____ The defendant shall obtain his/her GED and develop a skill and/or trade while on supervised release.

_____ If at any time the defendant is unemployed for a period of 60 days during his period of supervised release, the Court will order that he be required to obtain vocational training to improve his opportunities for employment.

_____ The deft is prohibited from engaging in any occupation where the deft would have access to individuals' personal information, money or accounts.

ILLEGAL ALIEN:

_____ Upon completion of the term of imprisonment, the deft is to be surrendered to a duly-authorized immigration official of the Department of Homeland Security Bureau of Immigration and Customs Enforcement for a deportation hearing in accordance with established procedures provided by the Immigration and Naturalization Act, T.8 USC, Section 1101, et seq. If deported, the deft shall not re-enter the U.S. without the express permission of the U. S. Attorney General.

_____ If at any time the deft illegally reenters the United States during the term of supervised release, his illegal reentry will be a violation of supervised release, as well as a violation of law.

HOME DETENTION & MONITORING:

_____ The deft shall participate in the Home Confinement Program, which shall include electronic monitoring at the deft's expense, for a period not to exceed _____ consecutive months/days as directed by the probation officer. During this time, he shall remain at his place of residence except for employment, obtaining medical attention for himself and family, attending religious services if he be so inclined and other activities approved in advance by the probation officer.

_____ The deft shall maintain a telephone at his place of residence without party lines, telephone answering machines, a modem, "call forwarding", "caller ID", "call waiting", portable cordless telephones or any other devices or services that may interfere with the proper functioning of the electronic monitoring equipment for the above period. The deft shall wear an electronic monitoring device, follow electronic monitoring procedures, and pay the cost of electronic monitoring, all as directed by the probation officer.

_____ The deft shall be ineligible for all federal benefits

FINANCIAL PENALTIES:

_____ The defendant shall pay a fine of \$_____. Interest waived: _____ Yes _____ No

_____ The defendant shall make restitution in the amount of _____ pursuant to the plea agreement and /or as set out in the Restitution Judgment _____
Interest waived: _____ Yes _____ No

_____ Restitution Judgment entered & filed in open Court.

Restitution is joint and several with _____

☒ The defendant shall pay a special assessment of \$100.00 which shall be due and payable immediately and if not immediately paid, may be deducted in installments from the defendant's prison account in accordance with the rules and regulations applicable to such accounts.

_____ It shall be a condition of supervised release that the defendant pays any criminal monetary penalties that remain unpaid at the time of supervised release.

☒ The Court waives the cost of prosecution, incarceration, and supervised release.

☒ Consent Order of Forfeiture entered & filed in open Court.

RECOMMENDATIONS TO THE BUREAU OF PRISONS:

☒ The Court recommends that the defendant be incarcerated at a facility that specializes in the treatment of prisoners convicted of child pornography offenses. @ in a facility as close to his home as possible.

☒ The Court recommends that while incarcerated:

- ☒ The defendant shall participate in a sexual offender + mental health treatment ~~substance abuse program~~ program, if available.
- _____ The defendant shall develop a skill or trade
- _____ The defendant shall obtain his / her GED.

_____ The defendant notified of the right of appeal.

☒ Court noted that the defendant waived the right of appeal in the plea agreement.

☒ The defendant having been found guilty and sentenced on 15 of the Indictment, it is ordered that remaining counts of the Indictment be dismissed in accordance with the terms of the plea agreement and on motion of the United States.

☒ The defendant is continued on present bond & cautioned re. bail jumping.

ADDITIONAL COUNTS / COMMENTS:

WITNESSES:

EXHIBITS:

